

(19) Statements of deficiencies based upon survey reports of health care institutions or facilities prepared after January 31, 1973, by a State agency, and such reports (including pertinent written statements furnished by such institution or facility on such statements of deficiencies), as set forth in § 422.433(a). Such statements of deficiencies, reports, and pertinent written statements shall be available or made available only at the district office and the regional office servicing the area in which the institution or facility is located, except that such statements of deficiencies and pertinent written statements shall also be available at the local public assistance offices servicing such area.

(20) Supplemental Security Income Handbook.

(21) Service Area Directory (including the addresses and geographic areas serviced by district offices, branch offices, regional offices, and payment centers).

(22) Indexes to the materials listed in paragraph (a) of this section and in this paragraph (b) and an index to the Office of Hearings and Appeals Handbook.

[39 FR 26722, July 23, 1974, as amended at 40 FR 27650, July 1, 1975; 44 FR 34942, June 18, 1979; 55 FR 1021, Jan. 11, 1990]

#### **§ 422.432 Materials in field offices of the Office of Hearings and Appeals.**

(a) *Materials available for inspection.* The following materials are available for inspection in the field offices of the Office of Hearings and Appeals:

(1) Title 45 of the Code of Federal Regulations (including the public information regulation of the Department of Health and Human Services).

(2) Regulations of the Social Security Administration (see § 422.430(a)(3)).

(3) Title 5, United States Code.

(4) Compilation of the Social Security Laws.

(5) Social Security Rulings.

(6) Social Security Handbook.

(7) Social Security Acquiescence Rulings.

(b) *Handbook available for inspection and copying.* The Office of Hearings and Appeals Handbook is available for inspection and copying in the field of-

fices of the Office of Hearings and Appeals.

[36 FR 18949, Sept. 24, 1971, as amended at 50 FR 28569, July 15, 1985; 55 FR 1021, Jan. 11, 1990]

#### **§ 422.433 Health care information.**

We have some information about health care programs under titles XVIII and XIX (Medicare and Medicaid) of the Social Security Act. We follow the rules in 42 CFR part 401 in determining whether to provide any portion of it to a requester.

[50 FR 28569, July 15, 1985]

#### **§ 422.440 Fees for providing records and related services for program purposes.**

(a) *Program purposes described.* (1) We consider a request to be program related if the information must be disclosed under the Social Security Act. For example, section 205(c)(2)(A) of the Act (42 U.S.C. 405(c)(2)(A)) requires that we provide certain information upon request to a worker, her or his legal representative, her or his survivor, or the legal representative of the worker's estate. That information is the amounts of the worker's wages and self-employment income and the periods during which they were paid or derived, as shown by our records.

(2) We also consider a request to be program related if the requester indicates the needed information will be used for a purpose which is directly related to the administration of a program under the Social Security Act.

(i) The major criteria we consider in deciding whether a proposed use is so related are:

(A) Is the information needed to pursue some benefit under the Act?

(B) Is the information needed solely to verify the accuracy of information obtained in connection with a program administered under the Act?

(C) Is the information needed in connection with an activity which has been authorized under the Act?

(D) Is the information needed by an employer to carry out her or his tax-paying responsibilities under the Federal Insurance Contributions Act or section 218 of the Act?

(ii) We will consider on a case by case basis those requests which do not meet

these criteria but are claimed to be program related.

(b) *When we charge.* If we determine the request for information is program related, we may or may not charge for the information. For example, as stated in § 422.125, we generally will not charge you for information needed to assure the accuracy of our records on which your present or future Social Security benefits depend. In addition, we generally will not charge for furnishing information under section 205(c)(2)(A) of the Act. However, if we do charge for a program related request (for example, if more detailed information or special services are requested) we will use the fee schedule in 45 CFR part 5 if information is being disclosed under the FOIA and the fee schedule in 45 CFR 5b.13 if access to the information is being granted under the Privacy Act. (Exception: If the request is for purposes of administering employee benefits covered by the Employee Retirement Income Security Act of 1974 (ERISA), even if the request is covered by section 205(c)(2)(A) of the Act, we will charge under § 422.441.)

(c) *Fee schedule.* Our fee schedule for providing records and related services for program purposes under the FOIA is the same as that in 45 CFR part 5.

(d) *If billing would cost more than the service.* Generally we will not charge you a fee when the cost of the service is less than the cost of sending you a bill. However, where an individual, organization, or governmental unit makes multiple separate requests, we will total the costs incurred and periodically bill the requester for the services rendered.

(e) *Fee for copies of printed materials.* When extra copies of printed material are available, the charge is generally 1 cent per page. If the material may be purchased from the Superintendent of Documents, the charge is that set by the Superintendent. The Superintendent's address is in § 422.410.

[50 FR 28570, July 15, 1985]

**§ 422.441 Fees for providing information and related services for non-program purposes.**

(a) *General.* Section 1106(c) of the Social Security Act permits the Secretary to require requesters of informa-

tion to pay the full cost of supplying the information where the information is requested to comply with the Employee Retirement Income Security Act of 1974 (ERISA), or “. . . for any other purpose not directly related to the administration of the program or programs under . . .” the Social Security Act. This may be done notwithstanding the fee provisions of the FOIA and the Privacy Act or any other provision of law. As used in this section—

(1) Full cost includes the direct and indirect costs to SSA (including costs of duplication) of providing information and related services under section 1106(c) of the Act; and

(2) Full cost of an employee's time includes fringe benefits and overhead costs such as rent and utilities.

(b) *Non-program related requests.* We consider a request for information which does not meet or equal any of the criteria in § 422.440 to be non-program related. (Whether a request for information about an individual is made by that individual or by someone else is not a factor.) In responding to these requests, or requests for ERISA purposes, we will charge the full cost of our services as described in paragraph (c) of this section.

(c) *Fee schedule.* Our fee schedule for non-program related requests is:

(1) *Manual searching for records.* Full cost of the employee's time.

(2) *Photocopying, or reproducing records such as magnetic tapes or punch cards.* Full cost of the operator's time plus the full cost of the machine time and the materials used.

(3) *Use of electronic data processing equipment to obtain records.* Our full cost for the service, including computer search time, computer runs and print-outs, and the time of computer programmers and operators and other employees.

(4) *Certification or authentication of records.* Full cost of certification or authentication.

(5) *Forwarding materials to destination.* If you request special arrangements for forwarding the material, we will charge you the full cost of this service (e.g., you request express mail or a commercial delivery service). If no special forwarding arrangements are requested, we will charge you the full cost of the